REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the above amendments and the following remarks.

Claim 14 have been canceled in favor of new claims 15-17. Claims 15-17 have been drafted to obviate the issues underlying the 35 USC 112, first paragraph, rejection applied to claim 14. Support for the subject matter of the new claims is provided, for example, in paragraphs [0029]-[0031], [0046], [0050]-[0052], and [0056] of the published specification. (It should be noted that references herein to the specification and drawings are for illustrative purposes only and are not intended to limit the scope of the invention to the referenced embodiments.)

Claim 14 was rejected, under 35 USC §103(a), as being unpatentable over Yamada et al. (US 2001/0014091) in view of Das et al. (US 7,564,827). To the extent that these references may be deemed applicable to new claims 15-17 presented herein, the Applicant respectfully traverses as follows.

Claim 15 defines a transmitting apparatus that increases the number of spread signals generated from the same retransmission signal according to how many times the retransmission signal was not received correctly in prior retransmission attempts. Additionally, the number of spread signals generated from the retransmission signal are limited according to the number of other user signals to be transmitted with the spread signals of the retransmission signal. The claimed subject matter provides an advantage of preventing a negative influence upon communication for other users caused by an increase of spread signals for a retransmission signal (see paragraphs [0053]-[0057] of the published specification).

The Office Action acknowledges that Yamada does not disclose detecting the number of retransmissions for a signal and setting the number of spreading codes for a retransmission signal in accordance with the number of detected retransmissions (see Office Action page 5, third paragraph).

To attempt to overcome this deficiency, the Office Action proposes that Das discloses changing the number of codes applied to a retransmission signal, of a multiplexed group of signals, in accordance with the quality of the communication channel (see page 5, last paragraph).

More specifically, Das discloses applying six of twenty-four multiplexed codes to an original transmission and applying twenty-one of the twenty-four codes to a retransmission through a poor-quality channel (see Das col. 4, lines 14-20). For a high-quality channel, Das discloses applying three of the twenty-four codes to the retransmission signal (see col. 4, lines 20-25).

However, Das does not disclose the Applicant's claimed subject matter of detecting the number of retransmissions. Instead, Das' system can only determine that a retransmission is occurring, without knowing whether it is the first, second, third, tenth, etc. retransmission. Thus, Das discloses setting the number of codes for a retransmission signal based on channel quality, rather than a number of detected retransmissions. As a result, Das cannot disclose the Applicant's claimed subject matter of *increasing* the number of spread signals generated for a retransmission signal in accordance with the number of times the retransmission signal is not received correctly in prior retransmission attempts.

Stated another way, Das discloses changing the number of codes applied to a retransmission signal when the channel quality changes. If no change occurs in the channel quality, Das' system does not change the number of codes applied to a retransmission signal. If the channel quality degrades, more codes are applied to the retransmission signal; and if the channel quality improves, fewer codes are applied to the retransmission signal. Thus, Das' system does not account for the number of retransmissions when allocating codes to a retransmission signal.

And because Yamada and Das do not disclose the claimed subject matter of increasing the number of spread signals generated for a retransmission signal in accordance with the number of times the retransmission signal is not correctly received in prior retransmission attempts, it follows that neither reference can disclose the claimed subject matter of limiting such increase according to a specific rule.

Accordingly, the Applicant submits that even if Yamada and Das were combined as proposed in the Office Action, the result still would lack the features of claim 15, and thus these references, considered individually or in combination, do not render obvious the subject matter of claim 15. Therefore, allowance of claim 15 is deemed to be warranted. Dependent claims 16 and 17 are allowable due to their dependence from allowable claim 15 and also due to their recitation of subject matter that provides an independent basis for their individual allowability. Specifically, claim 16 calls for the limiting section to determine the maximum number, so that the maximum number decreases with an increase in other user signals to be multiplexed, and claim 17 recites that the predetermined number increases each time the retransmission signal

fails to be received by the receiving user. It is submitted that this subject matter is not taught or suggested by the applied art.

In view of the above, it is submitted that this application is in condition for allowance and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,

/James Edward Ledbetter/

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JEL/DWW/att

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